

REMARKS

This amendment is in response to the outstanding Official Action mailed July 28, 2004, the shortened statutory period for filing a response being set to expire on October 28, 2004. In view of the within amendment, reconsideration of the Examiner's rejection is respectfully requested.

In response to the Election/Requirement, Applicant confirms its election to the Figure 1 invention, and claims 1-4, 6-9, 12-15, 18, 21, 22 and 24-30.

The Examiner has raised an objection under 35 U.S.C. 112, second paragraph, with respect to the limitation "an outer concave surface" as being misdescriptive. Applicant has amended the word "concave" to "convex" as suggested by the Examiner.

The Examiner has rejected claims 1-3, 7, 8, 12-15, 18, 21, 22 and 24-30 under 35 U.S.C. § 102(b) as being anticipated by Colley, United States Patent No. 5,769,556. The Examiner states that Colley discloses a first insert 31 or 33 of varying dimension from a second insert 27 or 29, and also, wherein the thickness defined between the inner and outer surface of the inserts vary. The Examiner specifically makes reference to Fig. 2 of Colley. Applicant has amended the claims to clarify the present invention over the teachings of Colley.

By way of explanation, Applicant's invention is directed to the use of a single mounting bracket which is adaptable for use in coupling to, for example, supports having different size and/or shape. This is accomplished by providing inserts having an outer surface which is adapted for receipt within the opening defined by the mounting bracket, and having an inner surface of specific size and shape to accommodate the size and shape of the support to which the mounting bracket is attached, e.g., a pole or other such structure. As a result,

the inserts have a predetermined outer shape and dimension matching that of the inner concave surface of the mounting bracket opening. On the other hand, the inner surface of the insert is dimensioned such that the wall thickness of the insert is either increased or decreased depending upon the size of the support to which the mounted bracket is attached. In addition, the shape of the inner surfaced of the insert can also conform to the different shapes which may be provided with respect to the support. Inserts for accommodating supports of different shape are disclosed in Figs. 2C and 2D of Applicant's application. The prior art cited by the Examiner, namely Colley, does not teach or suggest this feature of Applicant's invention as set forth in the amended claims.

As shown in Fig. 2 of Colley, the inserts 27 and 29 will only accommodate a single shape and predetermined size tubular member 11. Similarly, the inserts 31 and 33 will also only accommodate a specific shape and predetermined sized tubular member 13. These inserts are not interchangeable with one another as they are constructed specifically to be received in that portion of the mounting bracket 19 which conforms to the size and the shape of a corresponding insert. Thus, inserts 27 and 29 have three projections for being received within three grooves in the surrounding mounting bracket, while inserts 31 and 33 have only two projections to be received within two grooves within a corresponding portion of the mounting bracket.

In addition, the thickness of the inserts 27 and 29 and 31 and 33 are the same, as shown in Fig. 2. To the extent that any insert 31 and 33 could possibly be substituted for inserts 27 and 29, the resulting area encompassed by the inserts would be the same whereby tubular members of different shape or diameter could not be accommodated. The Examiner should appreciate that the inserts of Colley are of a predetermined size and shape so as to accommodate a dedicated size and shape

tubular member. There is no teaching of providing inserts which are interchangeable within a fixed bracket configuration to accommodate members of different size and/or shape. This is contrary to Applicant's claimed invention.

For example, the inserts of claim 1 have the same outside diameter and different inside diameter whereby the thickness of the inserts are different. As a result of the inserts having the same outside diameter, the inserts are sized to fit within the area defined by the inner surface of the mounting bracket. This is specifically contrary to Colley where the inserts have different outside diameters.

Applicant's remaining independent claims 8, 18, 21, 24, 25, 27 and 29 have also been amended to distinguish the present invention over Colley for those reasons noted hereinabove. For example, with respect to claims 25 and 27, the mounting bracket defines an area between its inner concave surfaces. The pair of inserts are sized to fit within the area thus formed by the mounting bracket. In claim 25, the inserts between the inner and outer surfaces have different thicknesses, while in claim 27, the inner surfaces have dimensions varying from each other. Thus, the inserts are standardized with respect to their outer surface, varying only with respect to their inner surface to accommodate a mounting bracket of different size and/or shape. This feature of Applicant's claimed invention is not anticipated by Colley.

The Examiner referred to Morehouse, United States Patent NO. 2,355,742 solely for its disclosure of inserts having protrusions to be received within grooves within the mounting bracket. In view of the above amendments, Morehouse is no longer relevant to the claimed invention. Notice to that effect is respectfully requested.

In considering Applicant's within response, Applicant designates the rejected dependent claims as being allowable by

virtue of their ultimate dependency upon submittedly allowable independent claims. Although Applicant has not separately argued the patentability of each of the dependent claims, Applicant's failure to do so is not to be taken as an admission that the features of the dependent claims are not themselves separably patentable over the prior art cited by the Examiner.

As all claims pending in this application possess the requisite novelty and obviousness over the prior art of record, notice to that effect is respectfully requested. In addition, it is requested that the withdrawn claims be rejoined to be allowed within this application.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

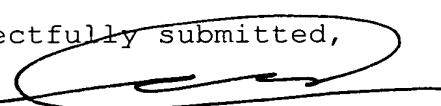
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 8, 2004

Respectfully submitted,

By


Stephen B. Goldman
Registration No.: 28,512
LERNER, DAVID, LITTENBERG,
KRUHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant